

PLANNING COMMISSION MEETING

March 13, 2014

The Planning Commission convened in Courtroom No. 1 at City Hall for their regular meeting. Chairman Komjati called the meeting to order at 7:30 PM. He asked the secretary to call the roll. Members in attendance were, Ms. Leah Huth, Mr. Mark Wainwright, Ms. Carol Fleck, and Chairman David Komjati. Ms. Christine Shoop was absent. Also present were, City Manager Anthony Carson, Assistant City Manager/Community Development Director Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES: Chairman Komjati asked for additions or corrections for the Planning Commission Meeting of February 13, 2014. There being none, he asked for a motion. Motion by Ms. Fleck, seconded by Mr. Wainwright to approve the Planning Commission Meeting Minutes from February 13, 2014 as submitted. Chairman Komjati asked the secretary to call the roll. On roll call, Mr. Wainwright, Ms. Fleck, Ms. Huth, and Chairman Komjati said “aye”. Motion carried.

Chairperson Komjati indicated there is one item under New Business.

NEW BUSINESS: (Public Hearing Item)

Zoning Code Modification: include party centers as a conditional use in the M-1/M-2 Industrial Districts.

Chairman Komjati indicated that this item has come before the Commission previously. He asked Mr. Schaedlich to explain this request to the Commission.

Mr. Schaedlich stated this case was presented in 2013. In 2013, the City put forth an application to the Planning Commission requesting a text addition to the list of Conditional Uses to allow “Places of Assembly/Party Centers”. This request was prompted by a property owner, Christian Weiss, Jr., who started renting out a vacant unit within his industrial building located at 385/387 Fountain Avenue for private parties. The City’s application was heard by the Planning Commission at their meeting of July 11, 2013 and was denied by a vote of 4 – 0.

At that time, Mr. Weiss had the understanding that the application would then be forwarded to City Council for their review. Because the City had initiated the application, however, the Planning Commission’s decision was final and the application was not subject to review by Council.

Mr. Weiss has initiated his own application for a zoning code modification for this use. The request remains the same, to allow for a party center as a conditional use in the M-1 and M-2 Industrial Zoning Districts.

Mr. Schaedlich indicated that he has reviewed the request. He stated that his suggested conditions or recommendations are to provide limitations on the number of possible “places of assembly/party center” that can operate at any given time within the M-2 District. There are also additional parking requirements, security requirements, etc., that may make the use more palatable in the M-2, District.

Mr. Schaedlich went through the proposed special requirements for this use as a conditional use: (1) That no more than two (2) Places of Public Assembly/Party Centers may be operational at any given time within the M-2 Districts; (2) Days of Operation: Saturdays and Sundays Only; (3) Hours of Operation: 4 p.m. until 11 p.m. on Saturdays and 4 p.m. until 9:30 p.m. on Sundays; (4) Off-Street Parking: Shall be provided as listed in Section 1137.04(a) of the Planning and Zoning Code for the use of: Restaurant, bar or night club that shall require one off-street parking space per 100 square feet of gross floor area. Shared parking agreements with neighboring property owners may be utilized. No parking shall occur in the roadway in the M-2 District; (5) Building Inspections: The facility used for a place of public assembly/party center shall be compliant with all appropriate building, health, safety and fire codes applicable to the use of “Places of Assembly/Party Center”. Occupancy permits specific to the use of place of public assembly/party center shall be obtained prior to the facility commencing operation; (6) Certificate of Compliance. Shall be renewed on an annual basis; (7) Consumption of Alcohol: If alcohol is permitted to be consumed on the premises, then the owner shall provide a security plan that is acceptable to the City’s Chief of Police. Security shall be provided during all hours of operation; (8) Any and all appropriate state and local taxes associated with the operation of a “place of assembly/party center” shall be paid and kept current; (9) Accessory Building: Any building that is accessory to the principle use shall not be used in the operation of a place of public assembly/party center.

Chairman Komjati asked if there was anyone present to speak on this request. Mr. Paul Malchesky, 41 East Erie Street, stated that he is speaking on behalf of the applicant, Mr. Weiss, for 385/387 Fountain Avenue. He stated he understands that the Commission has a copy of the March 7, 2014 Staff Report from Mr. Schaedlich. After review the report, the applicant is in agreement with recommendations.

Mr. Malchesky stated that it is important to recognize that the applicant does not want to create this use for his structure. He does not want an unused or vacant building. He would much rather have a business there running 24/7. This condition would be a band-aid for the situation Mr. Weiss is currently experiencing. The applicant would want to lease the property out for the use it was intended. The ability to have the building used in this manner will provide the property owner income to help offset the costs of the property.

Mr. Malchesky addressed Mr. Schaedlich's comment regarding the limited industrial space available and the need to keep such space available for industrial use. They realize this is a concern for the City since industrial uses typically have employees that generate income tax for the City. The renting of the facility for a place of assembly/party centers will allow the applicant to generate income to pay his taxes and mortgage.

Mr. Malchesky spoke about the parking concerns. The property owner does not feel the parking will be an issue. It was mentioned that there are only twenty (20) parking spaces available and the issues that occurred last year. He stated that in talking with his client, he has several other tenants that he can work with to provide parking. In regards to the stipulations that were outlined in the recommendation, Mr. Malchesky believes there should be no issues with the parking for this type of use.

Mr. Malchesky asked the Commission to adopt this use to help the property owner with the economic down turn by allowing him to use his property in this manner. He asked if members of the Commission had any questions.

Ms. Fleck commented that it was mentioned about several others. Are there several others that will be doing the same thing? Mr. Malchesky explained that there are other vacant properties in this area. He stated that of the concerns brought up at the previous meeting it was mentioned that a concern was this would turn an industrial area into a party center location. They would like to have this use on a limited basis for weekends only. This would help the property owner out in the end. Mr. Malchesky stated that by limiting the number allowed it should alleviate that concern.

Ms. Fleck inquired if there were separate facilities for this unit, bathrooms and kitchenette. Mr. Malchesky replied yes, inside the facility there are sinks to wash items. They are washtubs and not a traditional kitchen sink. He commented that they would put in whatever the City or Health Department would require for this type of use.

Chairman Komjati asked what type of rent is generated for this type of use. Mr. Malchesky responded it is about \$200 per month. There was discussion regarding the previous year's incidents where it was noted the rent was around \$400 to \$500 per night. It was explained that the properties were owned by the current owner's son, Chris Weiss, III. The property went into foreclosure and the father, Chris Weiss, Jr., purchased the property. The procedure that occurred prior was not the current owner. Ms. Fleck asked if the previous owner had difficulty renting the facility. Mr. Malchesky stated that the buildings were occupied up until 2008/2009 when the downturn of the economy occurred.

Mr. Carson questioned the stipulation in Mr. Schaedlich's report regarding limiting the number of places of assembly to two. He asked what are the procedure and the time limitation. If this is granted then this property can come in and ask to be one of the two. Is this forever, or is there a time limit, how does another center get approval to open. Mr. Schaedlich responded that in the basis of applicants for this type of facility, there is no subset, so it could be for as long as they own the building. Mr. Carson commented that the first two that would be approved would be the two that are allowed. Mr. Schaedlich replied correct. Mr. Carson stated what if the facility is not being used in that manner. Chairman Komjati interjected that Mr. Malchesky's client receives the conditional use but then finds an industrial tenant, the party center use would then be opened for another person to use. Mr. Carson stated that he could keep the conditional use as a just in case the industrial use does not stay in operation for very long. This is a concern, since this might happen where only two individuals receive approval for this type of use. There needs to be a provision to limit the time allowed by having an expiration date.

Ms. Fleck stated what is to prohibit the two uses from co-existing at one location. Mr. Schaedlich responded that an industrial user would most likely fill the space with equipment, which would make it difficult to operate as a party center. Mr. Wainwright asked if a time limit could be placed on the use that would require the applicant to come back annually. Mr. Schaedlich asked Mr. Lyons to respond. Mr. Lyons indicated that a time limit of one-year could be placed on the permit.

There was discussion regarding the differences between an annual re-certification and an expiration of the permit with a renewal option. Mr. Carson stated this would give the City and the Planning Commission the assurance that this use is appropriate for this zoning district.

Mr. Lyons gave the following language to address this issue. Under item number 1 no more than two places of assembly may be operational at one time in the M-2 District; conditional use will only be valid for one-year and may be renewed; and is subject to renewal by a new application. If that happens, there is no reason to have a certificate of compliance on an annual basis.

Mr. Wainwright asked if this was approved and there is a second one in the M-2, is this M-2 anywhere in the City. Mr. Schaedlich responded that is correct, it would be a valid conditional use permit request for any M-2 Zoning District within the City.

Chairman Komjati stated that his concern is that this is a band-aid. It might appear that the band-aid will be a permanent fix. It could be temporary then become permanent. He stated that he sympathizes with the property owner who needs to generate income to offset his costs for the property. Mr. Wainwright commented that he believes that the property owner would rather have a suitable industrial tenant for this property since that would generate more income.

Ms. Fleck stated that she has visited the location numerous times to understand the scope of this request. She stated that as a heavy industrial area it is not suitable for this type of use. Having this type of use in this zoning district would be like having a truck terminal on Mentor Avenue next to the school and church. The Zoning Code stipulates what uses are good for each other in terms of their location and why they should be separated. Mr. Malchesky responded by stating generally the reasons for the separation of uses is for noise and the activity.

It is up to the customer to choose to have the less desirable place for a party; it would be more of what the customer wants. He stated that he appreciates the logic, he believes that it is opposite of what the concern would be. Party centers are allowed in the City, just not in this zoning district. Ms. Fleck stated that she sees this as the reason for zoning.

Ms. Huth asked about the use of alcohol at the party center. Why type of assurances would be put in place to make sure there is no serving to minors. Mr. Malchesky replied that his position is they are to provide a plan to be approved by the Police Chief. He is unsure of what would be required by the Chief of Police in regards to the plan.

Chairman Komjati asked if there were any additional questions or comments from Members of the Commission. There being none, he asked if members of the audience had any comments or questions.

Mr. Angelo Cimaglio, 477 Owego Street, commented that he would think that before this is done, the commission would like to see if this has been done in other communities. He asked if Mentor, Perry, or Willoughby have party centers in their industrial areas. The definition of party center is very vague. It could mean wedding receptions, who will enforce the occupancy of the building. Alcohol was brought up, if you do not have a license, you bring your own. Who will be responsible for the people that go there? He does not want to see this end up as a place where the police have to be there all Saturday night.

There being no other comments, Chairman Komjati asked if there was a motion to approve the Zoning Code modification.

A motion by Mr. Wainwright, seconded Ms. Fleck to approve the proposed Zoning Code modification based on the Staff Recommendations with the stipulation the permit is only valid for one-year. There being no further discussion, the secretary was asked to call the roll. On roll call, Mr. Wainwright answered "yes"; Ms. Fleck, Ms. Huth, and Chairman Komjati answered "no". Motion failed.

The applicant was informed that they have the option to take the negative recommendation of the Zoning Code proposal to City Council. A letter outlining the procedure would be sent to the applicant.

ADMINISTRATIVE REPORT:

- **Temporary Structure and Uses: Lake Erie College was granted the placement of a temporary modular unit at Recreation Park on June 12, 2008 with extensions granted in December 2008; November 2009; November 2010; November 2011; December 2012. Lake Erie College is requesting an additional one-year extension of their permit for the modular unit for the 2014-2015 seasons.**

Chairman Komjati indicated that there was no one present to speak on behalf of this request. He asked if there was a motion to table this request. A motion was made by Ms. Fleck, seconded by Mr. Wainwright, to table the Temporary Structure and Uses extension request for Lake Erie College until a representative is present. There being no further discussion, the secretary was asked to call the roll. On roll call, Ms. Huth, Mr. Wainwright, Ms. Fleck, and Chairman Komjati answered "yes". Motion carried.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

Mr. Lewis and Mr. Schaedlich explained the current CVS project in relation to the site plan and the proposed recommendations that have been made by the Administration. The Commission appreciated the update from the Staff.

Lynn M. White, Secretary

David Komjati, Chairman